

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

BORRAH E. CAMPBELL II,

Plaintiff

v.

UNITED PARCEL SERVICE, INC.,

Defendant.

RECEIVED
2006 MAR -2 P 12:15
DEBRA P. HACKETT, CLK
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA

CIVIL ACTION
NO. 2:06CV205 - wha

NOTICE OF REMOVAL

COMES NOW Defendant United Parcel Service, Inc. ("UPS"), by and through the undersigned counsel, appearing specially without waiving any defenses that it might assert in a timely motion or responsive pleading, and pursuant to 28 U.S.C. §§ 1331, 1332, 1441, and 1446, respectfully shows this Court as follows:

1. On January 18, 2006, Plaintiff Borrah E. Campbell II ("Plaintiff"), *pro se*, brought suit against UPS in the Circuit Court of Montgomery County, Alabama, said suit being designated as Civil Action No. CV-2006-157 (hereinafter "State Court Action"). Plaintiff mailed a Summons and a copy of his Complaint on or about January 27, 2006, and UPS received the Summons and Complaint on February 1, 2006.

2. On February 21, 2006, Plaintiff filed an Amended Complaint in the State Court Action. UPS received Plaintiff's Amended Complaint via mail on February 22, 2006.

3. In the State Court Action, Plaintiff seeks to recover "personal injury compensation in the amount of \$3,000,000" for UPS's alleged racial harassment and/or alleged racial discrimination of Plaintiff in his employment with UPS. (Pl.'s Compl. and

SCANNED
026 30306

Am. Compl.) Thus, Plaintiff is seeking to recover from UPS in the State Court Action an amount in excess of \$75,000.00, exclusive of interests and costs.

4. Upon information and belief, Plaintiff is now and at all relevant times has been a citizen and resident of the State of Alabama. Plaintiff stated in the Summons and in his Amended Complaint filed in the State Court Action that his address is 38 Fairlane Drive, Montgomery, Alabama 36106.

5. UPS is now and at all relevant times has been a corporation organized and existing under the laws of the State of Ohio and maintains its principal place of business in the State of Georgia. Thus, UPS is a citizen of a state other than Alabama for diversity jurisdiction purposes.

6. Plaintiff's racial harassment and/or racial discrimination claims arise under federal law as Alabama law does not provide Plaintiff a cause of action for these employment claims.

7. UPS attaches hereto as Exhibit A Plaintiff's Complaint, Summons, and Amended Complaint, which constitute all process, pleadings, and orders previously filed in the State Court Action.

8. UPS files this Notice of Removal within thirty (30) days of receipt of Plaintiff's Complaint in the State Court Action, which was the first pleading received by UPS, through service or otherwise, setting forth the claim for relief upon which such action is based.

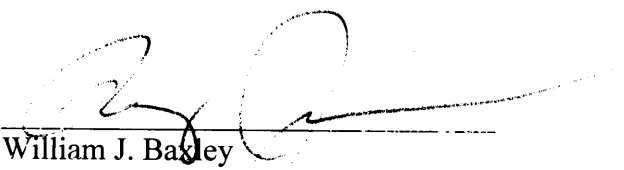
9. This case is removable under 28 U.S.C. § 1441 because Plaintiff's and UPS's citizenship are diverse, UPS is not a citizen of the State of Alabama, and the

amount in controversy exceeds \$75,000.00, exclusive of interest and costs. Accordingly, this Court has jurisdiction to hear this matter pursuant to 28 U.S.C. § 1332.

10. This case is also removable under 28 U.S.C. § 1441 because Plaintiff's claims arise under the laws of the United States. Accordingly, this Court has jurisdiction to hear this matter pursuant to 28 U.S.C. § 1331.

11. Pursuant to 28 U.S.C. § 1446(d), UPS has given written notice of this Notice of Removal to Plaintiff and to the Clerk of the Circuit Court of Montgomery County, Alabama.

WHEREFORE, UPS respectfully submits this Notice of Removal of the State Court Action to this Court this 2nd day of March 2006.



William J. Baxley
Alabama State Bar No. BAX001
Donald R. James, Jr.
Alabama State Bar No. JAM016
BAXLEY, DILLARD, DAUPHIN,
McKNIGHT & BARCLIFT
2008 Third Avenue South
Birmingham, Alabama 35233
Phone: (205) 939-0995
Fax: (205) 271-1108

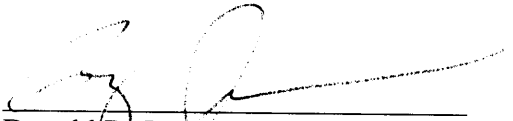
Attorneys for Defendant United Parcel
Service, Inc.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing NOTICE OF REMOVAL, depositing a true and correct copy of same in the United States mail, with adequate first-class postage affixed thereon to ensure delivery, addressed as follows:

Borrah E. Campbell, II
Pro Se
38 Fairlane Drive
Montgomery, Alabama 36106

This 2nd day of March 2006.



Donald R. James, Jr.